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reached as to allowable subject matter, the interview was useful in clarifying certain issues.

Claims 1 to 4 and 8 have been rejected under 35 U.S.C. §103 as unpatentable over U.S. Patent No. 5,282,864 to Noiles et al. ("Noiles"), and in view of U.S. Patent No. 4,813,959 to Cremascoli. It is submitted the rejection is improper and should be withdrawn.

Noiles discloses a prosthesis having a metal external shell and a metal bearing. The angle of the conical lock is stated as 6° to 17° at col. 3, line 12. Further, the metal bearing, also referred to as the "insert", is fashioned with recesses for engagement by a tool.

In the present invention, the antifriction liner is of a ceramic material. The metal bearing in Noiles is not of a ceramic material since it is fashioned with a number of recesses (hub 34 etc.). This cannot be done in ceramic.

In the present invention, the ceramic antifriction liner is made without external recesses. To remove the antifriction shell (2), at least one recess (3) is arranged in the metal shell (1) on the surface in contact with the antifriction shell (2). See pending claim 3.

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Cremascoli describes a total hip prosthesis which appears to be formed in part from a metal annular body (i.e. a ring), with a thread and a ceramic component. However, the ceramic component is coupled to the metal ring element by hot or cold casting, and is held securely in place by the high pressure which develops between the outer ceramic surfaces and inner metal surfaces after cooling of the metal annular body (see col. 2, lines 1-5). Casting refers to pouring a molten substance into a mold to solidify to a desired shape. In Cremascoli, that part of the outer ceramic component surface not intended to be coupled to the metal ring is then coated with a single, double, or plural layer of crushed granular material (see col. 2, lines 5-8).

It is submitted that Cremascoli either alone or in combination does not show or suggest the now claimed subject matter. In the Cremascoli structure, the ceramic cannot be removed from the structure without destruction of that part of the prosthesis since it is cast into the outer metal annular body. Thus, Cremascoli does not show or suggest a salient feature of the now claimed invention, i.e., the ceramic antifriction liner is removably fixed in the metal shell. As explained in the present specification, the antifriction liner is removably fixed in such a manner that its removal does not require the destruction of the ceramic liner or the metal shell.

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Further, the layered coating of granular material must be firmly attached to the outer surface of the ceramic portion of Cremascoli's structure. Clearly the granular material is not removable from the structure. More telling is the fact that the granular material serves to permit adequate bone regrowth between the interstices of the granular layer for anchorage. Since the granular layer is thus anchored to bone on or by its outer surface and non-removably fixed to the ceramic portion 5 on its inner most layer, it is clear that Cremascoli does not contemplate or suggest a non-destructive removability feature as recited in the pending claims (see claim 1).

It is submitted that the combination of references is improper and is the product of hindsight reconstruction and fails to consider the references in their entirety. It is clear from the intricate machining required for the bearing 13 of Noiles that such an element cannot be made of ceramic. Further, the ceramic portion of the Cremascoli structure is part of the external shell (see Fig. 1) and is formed so as to be non-removable. The combination of these references would be contrary to one another since each discloses a different element for a different purpose to obtain a different result. Further, it is an improper combination of references where one or more of the references is modified to a form which would render it inoperable for its intended purpose, see Ex Parte Hartmann, 186 U.S.P.Q. 366, 367 (POBA, 1974) or to change basic principles on which the

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invention of the reference operates, see In re Ratti, 123
U.S.P.Q. 349 (CCPA 1959).

Clearly, the rejection is the product of hindsight reconstruction merely because separate elements are shown in the art. However, such does not provide motivation for a combination even when the references are from the same art, Ex Parte Levitt 11 U.S.P.Q. 2d 1315 (Fed. Cir. 1989), and the rejection does not state any specific motivation provided by the cited references for the combination. As such, the rejection is improper as a matter of law. See In re Laskowski, 10 U.S.P.Q. 2d 1397 (Fed. Cir. 1989) and In re Grabiak, 226 U.S.P.Q. 870 (Fed. Cir. 1985).

The Examiner is requested to acknowledge the Information Disclosure Statement filed on or about April 27, 1995 and which apparently crossed in the mail with Paper Number 3.

In view of the foregoing, reconsideration and allowance of the application with claims 1 to 4 and 8 are earnestly solicited.

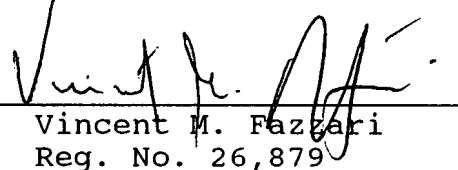
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The Examiner is requested after reviewing the foregoing to telephone Applicant's undersigned attorney to advise of the status of the matter so as to minimize any needless expense or delay.

Respectfully submitted,

FELFE & LYNCH

By


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